

11/20/2001minutes

Minutes of a Community Development Agency meeting held by the Town Board of the Town of Riverhead, at Town Hall, 200 Howell Avenue, Riverhead, New York, on Tuesday, November 20, 2001, at 9:25 P.M.

Present:

Robert Kozakiewicz,	Chairman
Edward Densieski,	Member
James Lull,	Member
Christopher Kent,	Member
Philip Cardinale,	Member

Also Present:

Andrea Lohneiss,	Director
Melissa White,	Deputy Town Clerk

Absent:

Barbara Grattan,	Town Clerk
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Chairman Kozakiewicz called the meeting to order at 9:25 p.m.

Chairman Kozakiewicz: "And call into order the CDA portion. We had a resolution that had been placed in the packet. I think it's 1184- 1186 which is attempting to address the question of the Swezey's holding issue and the extension of the one year. I understand there's some additional issues that need to be ironed out in the language."

Member Kent: "Yeah. I wanted to know, Dawn and I had a brief conversation about this regarding the- whether it was an automatic reverter, whether we have to commence litigation to get it to revert back to us."

Dawn Thomas: "We don't. I have- I brought the file with me."

Member Kent: "Okay. So you feel confident- "

Dawn Thomas: "(inaudible) provision that it states that upon notice- "

Member Kent: "Should speak into the microphone."

Dawn Thomas: "-- payment of costs, the town, it's a reverter

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that's in the contract and in the deed and I spoke to the counsel who prepared the agreement and the deed and he concurred that it was a simple notice provision; there was no litigation."

Member Kent: "So once we give notice it will revert automatically back to the town?"

Dawn Thomas: "Pay the costs of the transfer which would be the recording costs."

Member Kent: "Recording. Okay."

Member Lull: "There also was an understanding that if they were going to go to a third party, that the property that they purchased from the Parking District would be returned to the Parking District."

Dawn Thomas: "That was something that you wished to be placed in this resolution."

Member Kent: "Correct. And our rights- "

Member Lull: "Yes, it should have been."

Dawn Thomas: "And I wasn't aware- "

Member Kent: "And our right to consent to the- to a transfer to a third party? See this is an urban renewal so any subsequent holder of the property would have to meet the same goals and objectives that we outlined in our plan when we adopted the Urban Renewal Plan."

Member Lull: "We have to approve them as a sponsor."

Andrea Lohneiss: "Right as a designated sponsor."

Member Lull: "As a designated sponsor. Yes."

Member Kent: "We'd still have to consent. So- and I think that should be included in the resolution."

Dawn Thomas: "Okay. Whatever you want to put in, we'll put in."

Member Kent: "Yeah. It's subject to the same- you think we can do- well, I don't know if we can do it. Are they agreeing to this, Bob?"

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Chairman Kozakiewicz: "I'm sorry, what was that? I was having a side bar here."

Member Kent: "Right. I was wondering if Swezey's is consenting to us- if they have the- if they understand that if they intend to convey this property to a third party, that we have the right to consent."

Chairman Kozakiewicz: "We discussed that with them and I don't think they balked. It hasn't been formally set across to them, this- "

Member Kent: "Well, it's not placed as a condition on this resolution. And I have a question because I think this whole transaction was subject to public hearing since it's urban renewal and they would be- any third party would be held to the same requirements being declared an eligible sponsor."

Chairman Kozakiewicz: "That's correct."

Member Kent: "Um, I think that condition- "

Chairman Kozakiewicz: "I believe they have to be determined to be a qualified and eligible sponsor in order for this transaction to take place."

Andrea Lohneiss: "Right."

Member Lull: "There also was the understanding that if there were to be a transference to a third party, that the property that was purchased by the Parking District would be returned to the Parking District. We talked about that when they were in your office."

Chairman Kozakiewicz: "Yeah, and again, I- there was never an express understanding, yes or no, but if the Board wants to put that as a condition of the resolution."

Member Cardinale: "Is there any urgency on this or- "

Member Lull: "The question is do we do it as a resolution or do we- "

Member Kent: "Should we table it and try to come up with the language that's agreeable to both parties or should we- "

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Chairman Kozakiewicz: "Well, we'll never get it moving forward unless it gets brought to the table so the hope was to bring it up and if the Board wants to seriously address this and get it ironed out in the next two weeks, I have no problem tabling it in order to iron out all the miscellaneous details. But- "

Member Kent: "Okay. I will bring this to Dawn- "

Chairman Kozakiewicz: "-- they've been hanging out there."

Member Kent: "-- right away."

Chairman Kozakiewicz: "We have some issues that need to be addressed still with the site such as the fence and- "

Member Kent: "What about the skate park equipment? Is that- "

Chairman Kozakiewicz: "That's another issue as well."

Member Kent: "Yeah, I have that written down here, too."

Member Lull: "That's a separate- I don't think that should be part of this."

Chairman Kozakiewicz: "That's a separate arm of their organization that would have no involvement with this. But- "

Member Lull: "That's a Swezey's (inaudible)."

Chairman Kozakiewicz: "-they- "

Member Kent: "Well, perhaps they should do that in advance of us passing this resolution since it shouldn't be part of the resolution, it should be just done."

Member Densieski: "I agree with you (inaudible)."

Member Lull: "We can't- "

Member Kent: "What?"

Member Lull: "We can't hold them up like that. That's- "

Chairman Kozakiewicz: "It can't be part of this agreement. Okay. But there was, you know, the implicit promise and if the Board

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is saying to me and in turn I will say it to them that that's got to occur, then that will be made clear."

Member Kent: "Okay."

Chairman Kozakiewicz: "All right?"

Member Lull: "So CDA Resolution 1186 which extends the- "

Chairman Kozakiewicz: "Well the CDA Resolution 24."

Member Lull: "I'm sorry, 24, which extends time for Riverhead-Swezey's Riverhead Holding LLC to comply with the conditions of their agreement concerning property located on East Main Street, I move that we table that resolution."

Member Kent: "And I'll second it."

Chairman Kozakiewicz: "Motion to table. Second to table. Vote, please."

The Vote: "Densieski, yes; Cardinale."

Member Cardinale: "Yes, to table."

The Vote (Cont'd.): "Kent, yes; Lull, yes; Kozakiewicz."

Chairman Kozakiewicz: "With the understanding we will seriously get this done in the next two weeks, yes."

Member Lull: "Yes. Definitely."

Andrea Lohneiss: "Okay. The resolution to table is adopted."

Chairman Kozakiewicz: "Any other CDA business?"

Andrea Lohneiss: "No."

Chairman Kozakiewicz: "Let the record reflect the time of 9:29 and close the public hearing- I mean, close the CDA portion."

Meeting closed: 9:29 p.m.

Melissa A. White
Deputy Town Clerk

11/20/01

Adopted

TOWN OF RIVERHEAD
COMMUNITY DEVELOPMENT AGENCY

Resolution # 24

**EXTENDS TIME FOR SWEZEY-RIVERHEAD HOLDING LLC
TO COMPLY WITH THE CONDITIONS OF THEIR AGREEMENT
CONCERNING PROPERTY LOCATED ON EAST MAIN STREET**

_____ Councilman Lull _____ offered the following resolution, was seconded
by

_____ Councilman Kent _____:

WHEREAS in 1998, the Swezey-Riverhead Holding LLC company was designated a qualified and eligible sponsor in accordance with the established rules and procedures prescribed by the Community Development Agency to enable Swezey-Riverhead Holding LLC to enter into acquisition and disposition agreements as stipulated by Articles 15 and 15 A of the General Municipal Law, the enabling legislation for Urban Renewal and Urban Renewal Agencies, and

WHEREAS, pursuant to the above mentioned designation, the Town of Riverhead Community Development Agency and Swezey-Riverhead Holding LLC entered into an agreement permitting Swezey-Riverhead Holding LLC to acquire and assemble several parcels of real property located on East Main Street and Roanoke Avenue in Riverhead for the purpose of constructing a new location for Swezey's Department Stores in Riverhead, and

WHEREAS, the deed to a portion of the assembled properties now owned by Swezey-Riverhead Holding, LLC contains a reverter whereby the Town of Riverhead Community Development Agency would regain title to the property if Swezey-Riverhead Holding LLC failed to "substantially complete construction of a department store within three years" from November 1998, and

WHEREAS, no such construction has commenced and it appears that no such construction will commence in time to allow "substantial completion" by November 2001, and

WHEREAS, Swezey's- Riverhead Holding, LLC has expressed a desire to commence the planned construction, but at a later date than had been originally planned, and

WHEREAS, in consideration of the Town's agreement to forbear executing on the reverter contained the deed, Swezey's-Riverhead Holding, LLC has filled in the empty foundations of the subject structures and seeded the refilled areas,

NOW, THEREFORE, it is hereby resolved as follows:

1. That the Town Board shall forbear execution on the reverter contained in the deed to Swezey's-Riverhead Holding, LLC for a period of one year.

2. All of the other terms and conditions contained in the agreement dated November 1998 between the parties be continued in full force and effect providing that if Swezey's-Riverhead Holding, LLC should fail to abide by said terms by November 7, 2002, the Town shall be entitled to exercise all remedies available to it pursuant to the parties' agreement.

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to forward a certified copy of this resolution to Swezey-Riverhead Holding, LLC, Riverhead IDA c/o Monique Gablenz, Director, Town Attorney, and Frank Isler, Esq.

Councilman Kent offered the resolution to be taken off the table, and Councilman Densieski seconded the motion.

Densieski-yes, Cardinale-yes, Kent-yes, Lull-yes, Kozakiewicz-yes

Councilman Densieski offered the resolution as amended, and Councilman Kent seconded the motion.

Densieski-yes, Cardinale-yes, Kent-yes, Lull-yes, Kozakiewicz-yes

The resolution was adopted as amended.

Tabled

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WHEREAS, no such construction has commenced and it appears that no such construction will commence in time to allow "substantial completion" by November 2001, and

WHEREAS, Swezey's- Riverhead Holding, LLC has expressed a desire to commence the planned construction, but at a later date than had been originally planned, and

WHEREAS, in consideration of the Town's agreement to forbear executing on the reverter contained the deed, Swezey's-Riverhead Holding, LLC has filled in the empty foundations of the subject structures and seeded the refilled areas,

NOW, THEREFORE, it is hereby resolved as follows:

1. That the Town Board hereby agrees to forbear execution on the reverter contained in the deed to Swezey's-Riverhead Holding, LLC for a period of one year from the date hereof.

2. That all of the other terms and conditions contained in the agreement between the parties be continued such that, should Swezey's-Riverhead Holding, LLC fail to abide by the terms of the agreement by November 7, 2002, the Town shall be entitled to exercise all remedies available to it pursuant to the parties' agreement.

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to forward a certified copy of this resolution to Swezey-Riverhead Holding, LLC, Riverhead IDA c/o Monique Gablenz, Director, Town Attorney, and Frank Isler, Esq.

MEMBER LULL OFFERED TO TABLE THE RESOLUTION, WHICH WAS SECONDED BY MEMBER KENT.

THE VOTE
Densieski Yes ___ No ___ Cardinale Yes ___ No ___
Kent Yes ___ No ___ Lull Yes ___ No ___
Kozakiewicz Yes ___ No ___
THE RESOLUTION WAS WAS NOT ___
THEREUPON DULY ADOPTED

Tabled